

**Minutes of the Joint Meeting of the Veneta City Council and
Veneta Planning Commission
February 27, 2006**

Council
Present: Mayor T. J. Brooker, Darrell Carman, and Thomas Cotter

Planning
Commission: Chairman James Eagle-Eye, Jim Bruvold, and Lily Rees

Absent: Councilors Fred Miller and Marion Esty
Commissioners James Dean and Len Goodwin

Others: Ric Ingham, City Administrator; Margaret Boutell, Community Services Director; Sheryl Hackett, City Recorder; Brian Issa, City Planner; Jerry Elliott, City Engineer; and Jeneca Jones, West Lane News

1. CALL TO ORDER

Mayor T. J. Brooker called the Veneta City Council to order 5:41 p.m.

Chairman James Eagle-Eye called the Veneta Planning Commission to order at 5:41 p.m.

2. PUBLIC HEARING (continued from January 9, 2006)

SOUTHWEST AREA PLAN (SWAP) - (V-12-05)

Request for a variance to the Veneta Wetland Protection Ordinance, Veneta Municipal Code Chapter 18.10, Section 18.10.060, Variances

Assessor's map 18-06-01-00, tax lots 1600, 1602, 1605, 1606, and 1607

a. Staff Report (Brian Issa)

The Veneta City Council and Planning Commission held a public hearing on March 3, 2006 to consider the request by Hayden Homes for a variance to Veneta's Wetland Protection Ordinance for the Southwest Area Plan. The public hearing was closed and the record held open to allow time for submittal and rebuttal of new evidence.

Additional information received included a letter from Neighbors for Responsible Growth (N4RG) expressing both an interest in seeing on-site mitigation happen as well as some opposition to the proposed fill of the wetlands. Those comments have been provided to the Council and Planning Commission.

Another issue was the establishment of public need and a lot of information was submitted by the applicant for public need vs adverse impacts which has been addressed in the staff report. The applicant supported public need as being implementation of the Transportation System Plan by extending Perkins Road, providing housing as allowed by the Comprehensive Plan and existing Southwest Area Specific Plan, the need to modify the existing plan to divert and treat stormwater prior to discharge to wetlands, reduction of housing costs by not

having to construct a bridge, and the need to avoid further impacts to wetlands.

Staff agreed that the extension of Perkins Road is required by the TSP but whether or not the alignment meets the criteria for a wetlands variance is not clear. If the wetland variance is denied it would push the road further outside the Urban Growth Boundary and it is unclear to staff at this point exactly what the impact to the City would be.

Staff disagrees that the provision of housing in this specific case constitutes a public need. The applicant has not submitted information that the need for housing has not been met and that it would have to happen in this specific area. The City has already provided over 600 of the 677 new single family dwellings needed to serve the projected 2020 population as determined by the 1999 Comprehensive Land Use Evaluation.

Staff agrees that there is a need to modify the existing plan to divert and treat stormwater prior to discharge to wetlands to meet State standards and that would likely dry up the wetlands on the southeast corner of the site.

Staff does not agree that the interpretation of "public need" should include housing costs. The applicant has not established a need for low cost housing or that low cost housing would need to be met in this specific area.

Staff advised against broadening its interpretation of "public need" to include avoidance of higher maintenance costs. The establishment of public need should clearly detail why, in this specific case, the circumstances are so unique and necessary as to constitute a public need.

Staff agrees with the applicant that it would not be beneficial to move development closer to the large wetlands; however, staff does not agree that the rerouting of the road is the only alternative to avoid further impacts to wetlands.

In the staff report, other "public needs" are listed that were not included in the applicants summary. Staff feels there is a public need for enhancement of other on-site wetlands which can be achieved through on-site mitigation. On-site mitigation would provide a public need by replacing wetlands that could be degraded by the shading from a bridge or by having wetlands located on private properties. Staff feels that even if the wetland variance were denied there will be adverse impacts to those wetlands and it would be better to enhance the larger areas of wetlands by on-site mitigation.

Page 2 of the staff report lists the two options, (1) preserving the existing wetlands, or (2) allowing filling and on-site mitigation. The City Council and Planning Commission need to decide which option is the best way to protect the values listed in the City's wetland protection ordinance.

Based on expert testimony, staff recommends allowing on-site mitigation would be of greater benefit to the City. Staff also feels that the need for the proposed temporary impacts is well established and no permanent degradation or other

adverse impacts are likely to occur as a result. The staff report addresses the three areas of wetlands that will have permanent impacts and finds that based on a broader definition of public need to include the qualities and values listed in the wetland ordinance, the public need would be better served by allowing impacts to those wetlands and requiring on-site mitigation.

In light of the recent remand from LUBA on the Larson wetland variance, staff recommends directing staff to prepare findings to be reviewed by the City Attorney for consistency with the recent LUBA findings prior to final adoption.

B. Questions from the Veneta City Council and Planning Commission

In response to a question from Jim Bruvold, Brian said mitigation at a 1.5 to 1 ratio is what DSL requires for their permitting process. If the City requires a higher ratio it would be up to the City to make findings that would substantiate it as a public need.

In response to a question from Mayor Brooker about how the extension of Perkins Road would change the nature of the wetlands in that area, Brian said the wetland expert has stated the wetlands in that area are sustained by surface flow. If the stormwater runoff from the road needs to be detained and treated before it drains into the wetlands it could cause the wetlands to dry up. The wetland experts hired by the applicant have also stated that wetland was of very low quality.

Darrell Carman said the existing gravel driveway adjacent to the extension of Perkins Road is under water during heavy storms.

Brian said the developer will need to submit plans that show how the drainage from the future Perkins Road extension will work. Jerry Elliott said flood control will need to be taken into consideration.

In response to a question from Mayor Brooker about the need to consolidate the two drainage channels on the northwest part of the site, Brian said moving the road downhill was the only alternative suggested by the applicant. He said moving the road further downhill would require crossing only one channel with a shorter bridge; however, it would put the road closer to the open spaces. He said the applicant states a longer bridge needed to cross both channels would have higher maintenance costs. Brian cautioned the Council to not interpret reduced maintenance costs as a public need.

Margaret said the City would have to reopen the public hearing to explore other alternatives. Brian pointed out that having twice as much wetlands shaded by a longer bridge will have twice the adverse impact. He felt a trade off would be re-routing the channel so it would be open to the sun.

In response to a question, Brian said not only would the channel be re-routed, the applicant will need to include it in the percentage for the total on-site mitigation to be done. The proposal to open the channel up and vegetate it so it would not be a ditch also adds some value.

In response to a question, Margaret said the Division of State Lands and Corp of Engineers requires a five year monitoring period. The developer will be required to hire an expert to do that monitoring. She said in her experience with the City's mitigation projects, it is a very regulated process. If in five years the site does not meet the requirements, the monitoring period can be extended another two years.

Brian said based on the information from the experts, the City would be losing some wetlands that do not have an overall benefit to the City in exchange for gaining wetlands with a higher value. The shade from a bridge could further degrade the wetland qualities. He said the on-site mitigation can be included in the park area and becomes an aesthetic, as well as a recreational, amenity which creates the values that the wetland ordinances say should be protected.

James Eagle-Eye said he can understand the value of enhancing wetlands by on-site mitigation; however, the wetlands also serve as flood control. In response, Margaret said the detention ponds that will be created on-site can be designed to provide some of the flood control lost by the filling of the wetlands.

It was suggested that a condition be added to include the flood storage capacity of the .17 acres of wetlands that will be mitigated with the stormwater mitigation plan.

Mayor Brooker said that weighing the value of enhanced on-site wetlands seems to outweigh the public need for the .17 acres that will be mitigated.

In response to a question, Brian said the City would be responsible to oversee the monitoring of any wetland mitigation required over and above what DSL requires.

Darrell Carman pointed out that if the City requires the developer to avoid the wetlands, they would not have authority to require them to enhance it.

Prior to making their decision, the Council and Commission asked Brian to review each of the wetlands for which a variance is requested.

Perkins Road: Impacts .17 acres of wetlands to allow the extension of Perkins Road. Alternatives include bridging the wetlands or moving the road further south. Experts have testified that the wetlands have very limited value and the applicant proposes on-site mitigation. Staff feels the shade created by a bridge would have a secondary adverse impact. The options are to fill and mitigate, bridge the wetlands, or avoid the wetlands by moving the road further south. Changing the alignment of the road would create the need for another cul-de-sac within the site.

MOTION: Darrell Carman made a motion to tentatively approve the variance and require on-site mitigation. Thomas Cotter seconded the motion which passed with a vote of 6-0.

50' Rerouting of Channel: Impacts .004 acres of wetlands. The applicant proposes to reroute the drainage to one single channel under the road. An alternative is to

push the road further downhill, construct two culverts under the road, or reroute and bridge one channel. The reroute includes widening and re-vegetating the drainage ditch.

MOTION: Thomas Cotter made a motion to require a double culvert. Lily Rees seconded the motion.

Discussion: Darrell Carman said he would recommend not voting in favor of the motion because it would not require the channel to be enhanced. He said the applicants proposal to reroute the drainage into one channel also includes flattening it out and enhancing it with vegetation. A single channel would also put less wetlands under a bridge.

MOTION: Thomas Cotter amended his motion to tentatively approve the variance to allow rerouting the drainage into one channel. Darrell Carman seconded the motion as amended.

Discussion: In response to a request to clarify the motion, Thomas Cotter said the motion is to approve re-channeling on the basis that having less area of wetlands under a bridge would be better.

Vote: The motion passed with a unanimous vote of 6-0.

Isolated Wetlands: Impacts .004 acres of wetlands. The alternatives are to approve the variance with a requirement for on-site mitigation at a higher ratio or deny the variance and preserve the wetlands that would be located on private lots.

MOTION: Darrell Carman made a motion to tentatively approve the variance to fill the isolated wetlands and mitigate the wetlands on-site. Thomas Cotter seconded the motion which passed with a unanimous vote of 6-0.

Brian asked for a motion on the request for a variance to allow the temporary impacts for utility crossings. The temporary work does not require mitigation through the Division of State Lands.

In response to a question from Mayor Brooker, Brian said the applicant will be required to bring the wetlands back to the quality they are at prior to construction.

In response to a question from Darrell Carman, Brian said the footings for the permanent street crossings will be located outside the wetlands. There will be some temporary impacts during construction.

MOTION: Thomas Cotter made a motion to approve the temporary impacts to the wetlands during construction with a condition to restore the wetlands to the same quality prior to construction. James Eagle-Eye seconded the motion. The motion passed with a unanimous vote of 6-0.

In response to a question about how the City can protect wetlands located on private properties, Brian said staff will be proposing some amendments to the Greenway subzone to address that issue. If passed as proposed, the Greenway will follow the wetlands and if new wetlands are discovered the Greenway subzone will automatically apply.

3. ADJOURN

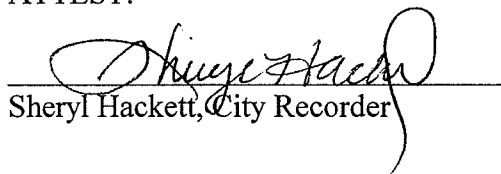
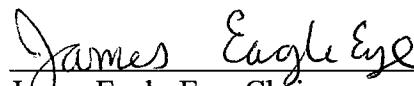
Prior to adjournment, Mayor Brooker presented Jim Bruvold with a distinguished service award for his many years of volunteer service as Chairman of the Veneta Planning Commission. Jim Bruvold was unable to attend the awards banquet because it conflicted with a Planning Commission meeting.

Mayor Brooker adjourned the City Council and James Eagle-Eye adjourned the Veneta Planning Commission at 6:58 p.m.

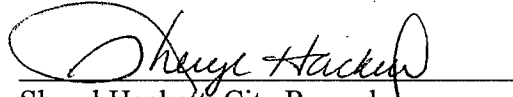


T. J. Brooker, Mayor
Veneta City Council

ATTEST:


Sheryl Hackett, City Recorder
James Eagle-Eye, Chairman
Veneta Planning Commission

ATTEST:


Sheryl Hackett, City Recorder
(minutes prepared by SLHackett)